

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 1-9 are pending after entry of the amendments set forth herein. In addition to the previously canceled claims, claims 15-17 have been canceled above, without prejudice to the possibility of filing one or more continuing applications directed to the subject matter recited therein.

Claims 1-9 and 15-17 were examined. Claims 1-9 and 15-17 were rejected.

Applicant respectfully requests reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Telephone Interview

Applicant wishes to extend his appreciation to the Examiner for the courtesy provided to Applicant's representative during the telephone interview of April 7, 2008. During the Interview, Applicant's representative distinguished the Ernst reference, noting that it is designed to maintain the soap surrounded by the cleansing elements (reaching only as far as the functional face of the cleansing elements, which constitutes the outer boundary) to help prevent water spray from hitting the soap, thereby preserving the life of the soap as long as possible, while the present invention extends the soap above the surface of the second scrubbing means so that the user can easily soap the foot, even the arch, during use, where the intent of the invention is to ease the ability to soap up the foot without bending over, not preservation of the life of the soap. The Examiner agreed to further consider these distinctions upon the filing of this amendment to include a recitation of an automatic adjusting means that ensures that a top surface of the cleansing material extends above a top surface of said second scrubbing means during use.

This account is believed to be a complete and accurate summary of the interview as required by 37 C.F.R. § 1.133. If the Examiner believes that this summary is inaccurate or incomplete, Applicant respectfully requests that the Examiner point out any deficiencies in his next communication so that Applicant can amend or supplement the interview summary.

The Office Action

In the Official Action of January 10, 2008, the drawings were objected to as not showing second scrubbing means having a contoured top surface, the first scrubbing means comprising a parabolically contoured surface and the first scrubbing means comprising a hyperbolically contoured surface. Applicant notes that claims 15-17 have been canceled above, without prejudice. Accordingly, it is respectfully submitted that this ground of objection is moot and the Examiner is respectfully requested to withdraw it.

Claims 1-9 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Mentges, DE 29900194 in view of Ernst, GB 1,290,401. The Examiner asserted that Mentges discloses a device for cleaning feet in the shower that includes a base portion (unterteil) with a pair of side walls (seitenteil) extending upwardly therefrom, and having an open end portion extending therebetween. The Examiner further asserted that a first scrubbing means in the form of bristles (5,6,7) is mounted on inner wall surfaces of the side walls and that second scrubbing means in the form of bristles (5,6,7) is mounted on an upper surface of the base portion and extends between the first scrubbing means. The Examiner asserted that suction cups (saugnapfe) extend from a bottom surface of the base portion.

The Examiner admitted that Mentges fails to disclose a bar of soap provided on a material support that is biased with respect to the base portion to a height to make contact with a user's foot.

The Examiner asserted that Ernst discloses a cleaning device (Fig. 2) for use in showers that includes scrubbing bristles 2 extending from a base portion 1 and a bar of soap 4,19 supported on a material support 3,13 amid the bristles. The Examiner asserted that the support is biased by spring(s) 5,15 away from the base portion to extend the soap to a height from the base portion higher than the bristles.

The Examiner asserted that it would have been obvious to provide the device of Mentges with a cleansing material support with bar soap thereon biased from the base of the device to extend from the base higher than the bristles, as suggested by Ernst, to eliminate separate manipulation of soap with the foot to be cleaned.

Applicant respectfully traverses. It is respectfully submitted that neither Mentges nor Ernst suggests placement of a bar of soap within the base of a foot brush. In this regard, Applicant has amended claim 1 above to recite a device for cleansing a user's foot.

It is noted that Ernst discloses a handheld scrub brush that retains soap such that soap extends downwardly from a top base member 1, see Fig. 1. It is further respectfully submitted Ernst does not teach biasing soap from the base of the device to extend from the base higher than the bristles, but rather

teaches away from the same. For example, Ernst discloses at page 1, column 2, lines 64-77 that the soap is able "to reach as far as the functional face (which constitutes the outer boundary) of the cleansing element(s), for example as far as the ends of the bristles." Thus, it is respectfully submitted that Ernst discloses that the soap reaches the functional face of bristles and that this constitutes the outer boundary of the travel of the soap.

In this way, Ernst notes that the soap is always applied between the bristles, and is shielded by the cleansing apparatus, so that it is not subjected, while being applied, to the spraying action of the shower.

In contrast, Applicant's device extends the surface of the cleansing material above the top surface of the second scrubbing means, e.g., see Fig. 4. Further, in order to overcome the Examiner's interpretation that Ernst may extend the soap beyond the surface of the bristles (which Applicant does not agree that Ernst discloses or suggests, but rather that Ernst teaches away from this), Applicant has amended claim 1 to recite that the automatic adjustment means ensures that a top surface of a cleansing material supported on said cleansing material support extends above a top surface of said second scrubbing means as a user's foot is slid over the cleansing material. It is respectfully submitted that Ernst discloses that the spring of his device is weak so that the mechanical friction of the bristles is exerted simultaneously with the application of the soap, so that there is no danger of the soap being rinsed away too rapidly. Thus, the soap reaches as far as the functional face (ends of the bristles) but not beyond. This is also shown in each of Figs. 1, 2 and 5 of Ernst.

Claim 1 has been amended further to recite that a top surface of the cleanser support is prevented from extending beyond a predefined level below said top surface of said scrubbing means.

Further claim 2 has been amended to delete a portion thereof that is now recited in claim 1. It is respectfully submitted that Mentges lacks any disclosure of soap or a cleansing material support whatsoever. It is further respectfully submitted that the device of Ernst is used upside down relative to the orientation of the present invention, as it is a hand-held scrub brush. As such, Ernst requires the use of webs or lands 18 which engage into the soap 19 to retain it, as it would not be possible to retain the soap 4 by the bristles 2 when used in the orientation shown in Fig. 1, which is a typical orientation of use of the Ernst brush. For these additional reasons, it is respectfully submitted that claim 2 is allowable over Mentges in view of Ernst.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-9 under 35 U.S.C. Section 103(a) as being unpatentable over Mentges, DE 29900194 in view of Ernst, GB 1,290,401, as being inappropriate.

Conclusion


Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number RYAN-001.

Respectfully submitted,

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Date: 4/10/08

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